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proof, that the whole of the trust funds have come into possession of the trustee, and the burden of proof is on him who seeks to surcharge the accounts of the trustee. *Matter of Ryalls,* 74 Hun 205, s. c. 80 Hun. 459. Further, a co-trustee is, in general, liable for his own acts only, and is not accountable for loss due to his colleague. *Stowe* v. *Bowen,* 99 Mass. 194. All these principles, and especially the last stated, are subject to rather strict limitations. For example, a trustee is held liable for loss due to the act of his co-trustee when the former has, by co-operation or connivance, enabled the latter to commit a breach of trust. *Bruen* v. *Gillet,* 115 N. Y. 10, 21 N. E. Rep. 676, 4 L. R. A. 529, 12 Am. St. Rep. 764. And even inaction on the part of a trustee is sufficient to cause his liability for loss by act of his co-trustee, when such inaction is under such circumstances as to amount to negligence. *Darnaby* v. *Watts* (Ky.), 21 S. W. Rep. 333; *Wilmerding* v. *McKesson,* 103 N. Y. 329.

FOREIGN CORPORATIONS—INTERSTATE COMMERCE.—Plaintiff, an Illinois corporation, engaged in the business of manufacturing and selling agricultural implements, sold, through a traveling salesman, a bill of goods to defendant, a retail dealer in Minnesota. The order was taken by the salesman subject to the acceptance by his principal and was duly accepted by plaintiff at its place of business in Illinois. But plaintiff maintained an agency in Minnesota, for the purpose of receiving, storing, and delivering goods to purchasers in that state, though the agent had no authority to make sales of property stored with it, or to take or receive orders therefor. Subsequently defendant's order was filled through this agency. Plaintiff brings suit on a promissory note given in payment, and the defense to the action is that plaintiff is a foreign corporation and has not complied with the statute (1899) prescribing certain conditions on which foreign corporations are permitted to do business. *Held,* that the transaction constituted interstate commerce, and that the statute did not apply in such cases, but only applied to corporations doing business within the borders of the state as distinguished from interstate commerce. *Rock Island Plow Company* v. *Peterson* (1904), — Minn. —, 101 N. W. Rep. 616.

The decision in this case is in accord with the well settled principle that the negotiation of the sale of goods which are in other states is interstate commerce. 2 WILGUS' CORPORATION CASES, 1504. The mere fact that the goods were re-shipped by a distributing agency at Minneapolis in the original bundles, providing the goods were not consigned to the agent until after the purchase was made, does not constitute the transaction local state business. On the other hand, as the court infers, had plaintiff shipped to and stored large quantities of its goods with the warehouse company, without reference to contracts previously entered into for their sale, clearly such transactions could not be included in interstate commerce. *Hynes* v. *Briggs et al.,* 41 Fed. Rep. 468; *Duncan* v. *The State,* 105 Ga. 457; *Emmert* v. *Missouri,* 156 U. S. 296. For discussion of cases similar to the principal case see 3 MICH. LAW REV. 72, 239.

GARNISHMENT—SITUS OF DEBT.—The defendant, a resident of Virginia, was employed as a traveling salesman by the Reynolds Tobacco Co., a cor-

poration of New Jersey, operating and having its principal place of business in North Carolina. The plaintiff, also a resident of Virginia, sued defendant in North Carolina, serving him by publication only and summoned the Tobacco Co. as garnishee as being indebted to defendant for wages. Section 194 of the Code provides that an action can be brought against a foreign corporation by a plaintiff not a resident of this state when the cause of action shall have arisen or the subject of the action shall be situated within the state. *Held,* that the subject of the action was situated within the state and that the Tobacco Co. was liable as garnishee for defendant's debt, subject to the exemptions allowed by North Carolina. *Goodwin* v. *Claytor* (1904), — N. C. —, 49 S. E. Rep. 173.

The question as to the situs of a debt, whether it resides with the creditor or the debtor is constantly recurring. Many had hoped the subject was settled by the decision of the U. S. Supreme Court in *Chicago & R. I. & P. R. R.* v. *Sturm,* 174 U. S. 710. But the state courts are not bound by this decision further than that the decisions of other states shall be given full faith and credit. In a recent case decided by the Court of Appeals of N. Y. *National Broadway Bank* v. *Sampson* (1904), 71 N. E. Rep. 766, on somewhat similar facts a contrary conclusion was reached. See 3 MICH. LAW REV. 229. In *Kansas City, Pittsburg & Gulf R. R.* v. *Parker* (1901), 69 Ark. 401, 63 S. W. 996, it was held that wherever the garnishee has been personally served he may be charged for the debt provided the law of the jurisdiction authorizes such garnishment, regardless of any doctrine concerning situs. It is believed this is the better view and the general tendency.

GIFT-PARENT AND CHILD—UNDUE INFLUENCE—PRESUMPTION.—The defendant's father, who by reason of mental and physical infirmity was dependent on her for care, immediately after a severe attack of the disease from which he suffered, gratuitously conveyed to her all his real estate. His remaining heirs brought suit to have the deed set aside. *Held,* that the burden of proof was on the defendant to show that there was no undue influence. *Slack* v. *Rees* (1904), — N. J. —, 59 Atl. Rep. 466.

Ordinarily a gift from parent to child is presumed to be the result of a natural and proper desire on the part of the parent to provide for the child and so will not be questioned. But where the mental powers of the parent have been weakened, as by age or sickness, and the child's mind is controlling, undue influence is presumed. COOLEY ON TORTS, 2nd ed. 602; 2 POMEROY'S EQ. JUR., Sec. 947; *Cowee* v. *Cornell,* 75 N. Y. 91, HUTCHINS' & BUNKER'S CAS. 309; *Allore* v. *Jewell,* 94 U. S. 506, HUTCHINS' & BUNKER'S CAS. 313; *Highberger* v. *Stiffler,* 21 Md. 338, 353. Yet the circumstances must be such as render undue influence probable, and the mere fact that the parent is feeble in body or mind, or dependent on the donee for support will not, alone, throw the burden of proof on the child. *Teegarden* v. *Lewis,* 145 Ind. 98, 44 N. E. Rep. 9; *Soberanes* v. *Soberanes,* 97 Cal. 140, 31 Pac. Rep. 910; *Van Deusen* v. *Rowley,* 8 N. Y. 358. Under this principle a gift, by an adopted child, of all her property, has been held valid. *Couchman's Admr.* v. *Couchman,* 98 Ky. 109, 32 S. W. Rep. 283. See also *Caspari* v. *The First German Church,*